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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/783,452

Applicant(s)

HELDOORN, FRED LAWRENCE

Examiner

PHU H. NGUYEN

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 11-14 and 16-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 11-14 and 16-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Acknowledgement is made of Amendment received 12/17/2007. Claims 1, 2, 12 and 17 are currently amended. Claims 3-5, 11, 13-14, 16, 18-20 are previously presented. Claims 6-10 and 15 is canceled.

Claim Objections

Claims 1-5 and 11 are objected to because of the following informalities: claim 1 has the phrases "a corresponding tap" and "the corresponding tap" instead of "a corresponding tab" and "the corresponding tab". For purpose of examination, the Examiner assumes the Applicant meant to use the phrases: "a corresponding tab" and "the corresponding tab" in the instant claim 1.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-5, 11-14 and 16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 1 and 12 contain the phrase "takeout holder comprises a high temperature plastic that provides a longer life expectancy and is stable at temperature above 260 degree C" that was not described in

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the specification as filed. If the applicant believes the description was provided in the specification, the applicant is requested to point out the column and line number in the specification that contains the description.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 11-12, 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dorey et al. (GB 2126211 A) in view of Denney et al. (U.S Patent No. Re 34953) and further in view of Recker et al. (U.S Patent No. 6523768).

Regarding claims 1 and 11, Dorey discloses a takeout holder (1, fig. 1) formed of thermosetting resin (corresponding to the claimed "plastic" recites in the instant claim 1) comprises:

a semi-circular base having a front edge and rear edge (reference sign 3, fig. 1);

a pocket (3, fig. 1) within the semi-circular base formed by a bottom wall, a side wall and a top wall that extends between the front edge and the rear edge; and

a fitting (4, fig. 1) (corresponding to the claimed "yoke" recites in the instant claim 1) that extends generally perpendicularly from the semi-circular base, where in the takeout holder comprises a plastic.

However, Dorey does not expressly disclose an opening in the side wall of the pocket that mates to a corresponding tab of the semicircular insert. Denney discloses

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means for holding the insert in engagement with the takeout jaw; means for holding comprising a spring clip (58, fig. 3) (functionally equivalent to the claimed "elongated male extension") extends onto the opening to contact a corresponding elongated female depression (50, fig. 2) for holding the insert within the pocket of the takeout jaw (line 4-51, column 5). Denney further discloses an opening in the side wall of the pocket to mate to a corresponding tap on the semi circular insert (as shown on fig. 2 from reference sign 50 to reference sign 44). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to add the feature as taught by Denney to the holder of Dorey to further secure the insert to the pocket.

The combination of Dorey and Denney does not expressly disclose the the pocket is tapered with the front edge wider than the rear edge to form a wedge shaped profile from the front edge to the rear edge adapted to frictionally fit a corresponding wedge shaped semi-circular insert. Recker discloses the wedge-lock tool insert system that each insert cannot be removed from its pocket without first releasing the wedge lock of its holder (line 26-53, column 5 and figure 2). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to take advantage of the wedging effect to lock the insert into the slot defined by the takeout jaw and modify the pocket of Dorey and Denney to have a wedge shaped profile from the front edge to the rear edge adapted to frictionally fit a corresponding wedge shaped semi-circular insert.

Regarding claim 2, in addition to the features discussed above for claims 1 and 11, Dorey discloses the jaw member (corresponding to the claimed "semi-circular

nonmetallic insert" recites in the instant claim 2) comprises a bottom wall and a top wall that extends between a front insert edge and a rear insert edge (5, fig. 1). Denney also discloses means for holding the insert in engagement with the takeout jaw; means for holding comprising a spring clip (58, fig. 3) (corresponding to the claimed "détente") for holding the insert within the pocket of the takeout jaw (line 4-51, column 5).

Regarding claim 12, in addition to the limitations discussed above for claim 1, Dorey also discloses the tong may also be formed as a unitary structure (corresponding to the claimed "molded" recites in the instant claim 12) from the thermoset composite (page 2, line 46-47). Furthermore, Denney discloses the maintenance of precise alignment of the takeout jaws and bottles to reduce damage to bottles and increase the life of the insert; the insert is held immovably within the pocket of the takeout holder (line 56-68, column 3 and fig. 2).

Denney also discloses means for holding the insert in engagement with the takeout jaw; means for holding comprising a spring clip (58, fig. 3) (corresponding to the claimed "détente" recites in the instant claim 9) for holding the insert within the pocket of the takeout jaw (line 4-51, column 5). Denney further discloses an opening in the side wall of the pocket to mate to a corresponding tap on the semi circular insert (as shown on fig. 2 from reference sign 50 to reference sign 40).

Regarding claim 14, Denney further discloses the takeout jaw further comprising a semi-circular nonmetallic insert (column 5, line 19- 25 and 26, fig. 2) comprising a bottom wall and a top wall that extends between a front insert edge and a rear insert edge.

Regarding claim 16, Denney also discloses alignment means for aligning the takeout jaw with a symmetrical takeout jaw as shown in Fig. 1 of Denney et al. (U.S Patent No. Re. 34953).

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dorey et al. (GB 2126211 A), Denney (U.S Patent No. Re. 34953) and Recker et al. (U.S Patent No. 6523768) as applied to claim 2 above, and further in view of Lloyd et al. (U.S Patent No. 5741343). The combination of Dorey, Denney and Recker discloses that material such as ceramic can be used to make the insert since it has a low thermal conductivity and a low thermal capacity; however brittle ceramic is not preferred since chipped ceramic jaw member eventually renders the take out incapable of performing its function of picking up bottles. Lloyd et al. (U.S Patent No. 5741343) discloses a solution for the brittleness of graphite by providing pads composed of a relatively high strength ceramic and having tongue-in-groove and/or roughened glass-contact surfaces (line 46-49, column 2). Therefore, it would have been obvious to one of ordinary skill in the art to use available high strength ceramic as taught by Lloyd to make the insert.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dorey et al. (GB 2126211 A), Denney (U.S Patent No. Re. 34953), Recker et al. (U.S Patent No. 6523768) and Lloyd et al. (U.S Patent No. 5741343) as applied to claim 3 above, and further in view of Oberlin (U.S Patent No. 3473938). The combination of Dorey, Denney, Recker and Lloyd does not expressly disclose the ceramic composed in part of alumina. Oberlin discloses an alumina containing thin walled refractory structure of high strength and thermal shock resistance (column 1, line 53-55). Therefore, it would have

been obvious to one of ordinary skill in the art at the time the invention was made to include alumina to take the advantage of high strength and thermal shock resistance as taught by Oberlin.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dorey et al. (GB 2126211 A), Denney (U.S Patent No. Re. 34953), Recker et al. (U.S Patent No. 6523768) and Lloyd et al. (U.S Patent No. 5741343) as applied to claim 3 above, and further in view of Nishikawa et al. (U.S Patent No. 4900807). Nishikawa discloses compositions that made up the material including a releasing agent, alumina and clay that have excellent high temperature strength (line 8-36, column 10) which provide another choice of material that is has excellent high temperature strength for one of ordinary skill in the art to construct the insert. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to select an available material as taught by Nishikawa with excellent high temperature strength to compose the insert.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dorey et al. (GB 2126211 A), Denney et al. (U.S Patent No. Re 34953) and Recker et al. (U.S Patent No. 6523768) as applied to claim 12 above in view of Mohler et al. (U.S Patent No. 6805832). The combination of Dorey, Denney and Recker discloses synthetic polymers such as coal tar pitch or polyacrylonitrile can be use as the plastic material for the take out jaw (page 2, line 2-4). Mohler discloses a thermite torch cutting nozzle that is fabricated from a material selected from the group consisting of mineral/phenolic and high temperature plastic. Therefore it would have been obvious to one of ordinary skill in

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the art at the time the invention was made to alternatively select the high temperature plastic as taught by Mohler since it is also an available high temperature plastic.

Claim 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Denney (U.S Patent No. Re. 34953) in view of Kume et al. (JP 04160065 A) and further in view of Recker et al. (U.S Patent No. 6523768). Denney discloses an insert for a non-metallic take out holder (26, fig. 2) comprises:

a bottom wall, a top wall and one or more side walls tapers from a rear edge to a front edge, wherein the insert is wider at the front edge than at the rear edge;

the front edge comprising a profile that corresponds to at least a portion of a bottle;

a lug (44, fig. 2) engages with spring clip (58, fig. 2) to secure removably the insert to the takeout holder (corresponding to the claimed "an extension positioned about the insert to engage an indentation in a take out holder to secure removably the insert to the takeout holder).

Denney does not expressly disclose that the insert is made of ceramic that includes alumina and a releasing agent. Kume discloses a ceramic insert wherein the ceramic includes alumina and a releasing agent for superior surface smoothness without causing sticking (Abstract). Therefore, it would have been obvious to one of ordinary skill in the art to choose a ceramic includes alumina and a releasing agent as a non-metallic material to make the insert to ensure superior surface smoothness without causing sticking.

The combination of Denney, Kume does not expressly disclose the the pocket is tapered with the front edge wider than the rear edge to form a wedge shaped profile from the front edge to the rear edge adapted to frictionally fit a corresponding wedge shaped semi-circular insert. Recker discloses the wedge-lock tool insert system that each insert cannot be removed from its pocket without first releasing the wedge lock of its holder (line 26-53, column 5). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to take advantage of the wedging effect to lock the insert into the slot defined by the takeout jaw and modify the pocket of Dorey and Denney to have a wedge shaped profile from the front edge to the rear edge adapted to frictionally fit a corresponding wedge shaped semi-circular insert.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Denney (U.S Patent No. Re. 34953), Kume et al. (JP 04160065 A) and Recker et al. (U.S Patent No. 6523768) as applied to claim 17 above, in view of Filges et al. (U.S Patent 6517597). The combination of Denney and Kume discloses a ceramic insert but did not disclose the ceramic is glazed. Filges discloses the surface of the ceramic composition has a coating with a very low porosity, in particular a glaze, a glazing for its protection (line 51-54, column 2). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to protect the ceramic with a glaze.

Response to Arguments

In response to Applicant argument that the term "stable at temperature above 260 degree C" is fully supported in the application as filed and/or the provisional application and that the skilled artisan knows the temperature achieved in the

manufacturing process in which the present invention is used is about 260 degree C (range of 232-288) as such the present invention must be able to withstand those temperature, the Examiner is not able to locate the disclosure of the claimed term "stable at temperature above 260 degree C" nor the stated range of 232-288 (assuming the Applicant meant degree C as a unit) in the specification of the application as filed and/or the provisional application. If the applicant believes the description was provided in the specification, the applicant is requested to point out the column and line number in the specification that contains the description.

Applicant argues regarding claim 3, that Lloyd teaches against the use of plastics because they cannot withstand the temperature and Dorey teaches against the use of ceramic materials because they are brittle and easily chipped. Furthermore, given the teachings of Dorey, Denney and Lloyd the skilled artisan would have no indication that the combination would work. However, as discussed above for claim 1, Dorey teaches the use of thermosetting resin that is a type of plastic that can withstand high temperature for the takeout holder to perform. Also discussed above for claim 3, Lloyd discloses a solution for the brittleness of graphite by providing pads composed of a relatively high strength ceramic and having tongue-in-groove and/or roughened glass-contact surfaces. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to expect the combination of Dorey, Denney, Recker and Lloyd would work since the plastic of Dorey can withstand the high temperature and the high strength ceramic of Lloyd is a solution for the brittleness problem.

Applicant's arguments with respect to claims 1-2, 4-14 and 16-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHU H. NGUYEN whose telephone number is (571)272-5931. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on 571-272-1189. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

P.N 3/12/2008

/Philip C Tucker/

Supervisory Patent Examiner, Art Unit 1791